

AN ORDINANCE

99489

REAFFIRMING AND DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S LOOP 410: BLANCO TO MCCULLOUGH WATER AND WASTEWATER PROJECT ("PROJECT") IS A NECESSARY PUBLIC PROJECT; FURTHER REAFFIRMING AND DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTIES, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC USE AS A PART OF THE PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM ("SAWS") TO ACQUIRE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTIES DESCRIBED BELOW, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC USE AS A PART OF THE PROJECT TO WIT; PARCELS INCLUSIVELY BETWEEN PARCEL NO. 7311 AND 7320 AS MAY DEVELOP FROM FURTHER SALES TRANSACTIONS AND PROPERTY DIVISION ON ANY TRACT IN THE PROPOSED ALIGNMENT OF THE PROJECT; AND SUBJECT TO OBTAINING SUCH REAFFIRMATIONS AND AUTHORIZATIONS FROM THE CITY COUNCIL AS DESCRIBED ABOVE AUTHORIZING SAWS STAFF AND/OR THEIR AUTHORIZED INDEPENDENT NEGOTIATOR TO NEGOTIATE AND EXECUTE ALL NECESSARY AGREEMENTS WITH THE OWNERS OF CERTAIN PRIVATELY OWNED PROPERTIES FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; FURTHER AUTHORIZING SAWS DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY, AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH FINAL JUDGMENT AND ALL NECESSARY APPEALS FOR THE CONDEMNATION OF PERMANENT EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; AND DECLARING THAT THE CONVEYANCE OF ALL SUCH PERMANENT EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE SHALL BE TO THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF SAWS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE; SAID PROPERTIES BEING DESCRIBED AS FOLLOWS:

ACRE (S)	LOT (S)	NCB	SUBDIVISION
0.046 ACRE	LOT 27	NCB 12050	JOE J. BARSHOP
0.0115 ACRE	LOT 26	NCB 12050	JOE J. BARSHOP
0.0494 ACRE	LOT 26	NCB 12050	JOE J. BARSHOP
0.0460 ACRE	LOT 24	NCB 12050	TEXACO SUBDIVISION
0.0136 ACRE.	LOT 54	NCB 11714	BLANCO HEIGHTS
0.0064 ACRE	LOT 57	NCB 11714	BLANCO HEIGHTS
0.1257 ACRE	LOT10	NCB 11714	BLANCO HEIGHTS
0.0849 ACRE	LOT 17	NCB 11714	BLANCO HEIGHTS
0.0769 ACRE	LOT 22	NCB 11714	BLANCO HEIGHTS

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**WHEREAS**, the public health, safety and best interest of the City of San Antonio and its citizens require the continued construction, operation and maintenance of sewer line facility; and

**WHEREAS**, it is necessary to construct, operate, and maintain such a facility, the Loop 410: Blanco To McCullough Water and Wastewater Project (the "project") located partially upon the property described herein, which is privately owned; and

**WHEREAS**, the City of San Antonio acting by and through representatives of the San Antonio Water System, have been unable to acquire the permanent and temporary easements, on the tracts described herein; and

**WHEREAS**, the San Antonio Water System Board of Trustees (the "Board") found that the acquisition of such easements is necessary for the public health, safety, and best interests of the citizens of the City of San Antonio and the surrounding region; **NOW, THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** It is hereby reaffirmed and declared that the Loop 410: Blanco To McCullough Water And Wastewater Project is a necessary public interest.

**SECTION 2.** It is further reaffirmed and declared that a public necessity exists for the acquisition of these permanent and temporary easement interests in certain privately owned properties as described herein attached hereto and incorporated herein for all purposes by negotiation and/or condemnation, if necessary, for public improvements for use as part of the Loop 410: Blanco To McCullough Water And Wastewater Project. The permanent and temporary easements are more fully shown on the Metes and Bounds and Plats which are attached as **ATTACHMENT I**.

**SECTION 3.** The San Antonio Water System ("System"), acting on behalf of the City of San Antonio, is hereby authorized (i) to acquire permanent and temporary easement interests, as described herein, by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Loop 410: Blanco To McCullough Water And Wastewater Project, (ii) the System, its employees, agents and/or their authorized independent negotiators to negotiate and execute all sales and other agreements, easements, and other necessary documents with the owners of certain privately owned properties described above and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, (iii) the System and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of the permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, (iv) to approve, ratify and declare valid all prior acts and proceedings done or initiated by attorney, agents and employees or an/or acting for the System to acquire such permanent easement interests across, over, upon and under certain privately owned properties as described herein, (v) further authorize the System and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for condemnation of these permanent and temporary

easement interests across, over, upon and under certain privately owned properties as described herein, (vi) approve, ratify and declare valid all prior acts and proceedings done or initiated by attorney, agents and employees or an/or acting for the System to acquire such permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, and (vii) declare that the conveyance of all such permanent and temporary easement interest in certain privately owned properties as described herein shall be to the City of San Antonio for the use and benefit of the System.

**SECTION 4.** All prior acts and proceedings done or initiated by attorneys, agents and employees of and/or acting for the System to acquire such permanent and temporary easement interests are hereby approved and ratified.

**SECTION 5.** It is further declared that the conveyance of the permanent and temporary easements shall be to the City of San Antonio for the use and benefit of the System.

**SECTION 6.** It is officially found, determined and declared that the meeting at which this ordinance is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

**SECTION 7.** If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

**SECTION 8.** This ordinance shall be effective immediately if it receives eight affirmative votes. Otherwise, it shall be effective on the 8th day of August, 2004.

**PASSED AND APPROVED this 29th day of July, 2004.**



M A Y O R

EDWARD D. GARZA

ATTEST:

  
CITY CLERK

APPROVED AS TO FORM:

  
for CITY ATTORNEY